

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

BRANDON MAGYAR

(b) County of Residence of First Listed Plaintiff _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
 Kimmel & Silverman, P.C.
 30 E. Butler Pike
 Ambler, PA 19002
 (215) 540-8888

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business In This State	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input checked="" type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 810 Selective Service	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Agriculture	<input type="checkbox"/> 850 Securities/Commodities Exchange	
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 410 Other Food & Drug	<input type="checkbox"/> 861 HIA (1395ff)	
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 425 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 862 Black Lung (923)	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 864 SSD Title XVI	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	FEDERAL TAX SUITS	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 893 Environmental Matters
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	IMMIGRATION	<input type="checkbox"/> 894 Energy Allocation Act
			<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 895 Freedom of Information Act
			<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
			<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) _____ 6 Multidistrict Litigation 7

Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C SECTION 1692Brief description of cause:
Fair Debt Collection Practices Act**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

Explanation: _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

06/21/12

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 22211 Woodside Dr., Bristol, IN 46507
 Address of Defendant: 507 Prudential Rd., Horsham PA 19044

Place of Accident, Incident or Transaction: _____
 (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities?

Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes No

CIVIL: (Place ✓ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. Indemnity Contract, Marine Contract, and All Other Contracts

2. FELA

3. Jones Act-Personal Injury

4. Antitrust

5. Patent

6. Labor-Management Relations

7. Civil Rights

8. Habeas Corpus

9. Securities Act(s) Cases

10. Social Security Review Cases

11. All other Federal Question Cases 15V.S.C. § 1692
 (Please specify)

B. *Diversity Jurisdiction Cases:*

1. Insurance Contract and Other Contracts

2. Airplane Personal Injury

3. Assault, Defamation

4. Marine Personal Injury

5. Motor Vehicle Personal Injury

6. Other Personal Injury (Please specify)

7. Products Liability

8. Products Liability — Asbestos

9. All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, craig Thor Kimmel, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 06/21/12

Attorney-at-Law

51100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 06/01/12

Attorney-at-Law

51100

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

BRANDON MAGYAR	:	CIVIL ACTION
	:	
V.	:	
	:	
NCO FINANCIAL SYSTEMS, INC.	:	NO.
	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

06/20/2012
Date

Craig Thor Kimmel
Attorney-at-law

Plaintiff, Brandon Magyar
Attorney for

215-540-8888
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E-Mail Address

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSLYVANIA**

BRANDON MAGYAR,)
Plaintiff)
v.)
NCO FINANCIAL SYSTEMS, INC.,) Case No.:
Defendant)
) COMPLAINT AND DEMAND FOR
) JURY TRIAL
) (Unlawful Debt Collection Practices)

COMPLAINT

BRANDON MAGYAR (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC., (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business and has its corporate headquarters located in the Commonwealth of Pennsylvania; therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

PARTIES

5. Plaintiff is a natural person residing in Bristol, Indiana 46507.

6. Plaintiff is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).

7. Defendant is a national debt collection company with its corporate headquarters located at 507 Prudential Road, Horsham, Pennsylvania 19044.

8. Defendant collects, and attempts to collect, consumer debts incurred, or alleged to have been incurred, for personal, family or household purposes on behalf of creditors and debt buyers using the U.S. Mail, telephone and/or internet.

9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. At all relevant times, Defendant was attempting to collect an alleged consumer debt.

12. The alleged debts at issue, a medical debt and car loan, arose out of transactions, which were primarily for personal, family, or household purposes.

13. Beginning in or around August 2011, and continuing through April 30, 2012, Defendant continuously and repetitively contacted Plaintiff on his home, cellular, and work telephone numbers, seeking and demanding payment of \$16,800.00 for an alleged debt.

14. Plaintiff received collection calls from the following numbers: (888) 209-3124, (866) 265-1913, and (877) 895-5703, which the undersigned has confirmed are telephone numbers belonging to Defendant.

15. In the beginning, Defendant called Plaintiff's cellular phone, on average, two (2) to three (3) times a day, causing him to receive more than ten (10) collection calls a week.

1 16. On numerous occasions, Plaintiff spoke with Defendant's collectors, who
2 demanded that he make a payment on the alleged debts.

3 17. Each time, Plaintiff instructed Defendant stop contacting him.

4 18. Despite these instructions, Defendant continued to contact Plaintiff seeking and
5 demanding payment of the alleged debts.

6 19. Defendant was relentless in its attempts to collect the debt, and began calling his
7 home and work telephone numbers, when it was unable to contact Plaintiff on his cellular
8 telephone, having the intent to annoy, abuse and harass Plaintiff in its attempts to collect a debt.
9

10 20. Also, in conversations with Defendant's debt collectors, Plaintiff informed
11 Defendant that he could not afford to pay the debt and inquired about the possible repercussions
12 of not paying the alleged debt.

13 21. Defendant's collectors informed Plaintiff that the next step would be legal action
14 and wage garnishment if he did not pay the alleged debt.

15 22. Consequently, Plaintiff believed that he would be sued over this debt and/or that
16 his wages would be garnished

17 23. Upon information and belief, Defendant did not intend to take such actions at the
18 time it made these threats.

19 24. In addition, in its attempts to collect a debt, on numerous occasions, Defendant
20 contacted Plaintiff's parents.

22 25. Defendant left messages on Plaintiff's home answering machine, identifying
23 itself as a debt collector, stating that it was calling for Plaintiff, and requesting that Plaintiff call
24 it back.

26. Upon information and belief, at the time Defendant contacted Plaintiff's parents, Defendant possessed valid contact information for Plaintiff.

27. Furthermore, when contacting Plaintiff's parents, Defendant did not have permission from Plaintiff to disclose debt information to any third party, including his parents.

28. Defendant's actions in attempting to collect a debt were harassing, abusive, and annoying.

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

COUNT II

29. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §1692c(b).

- a. A debt collector violates §1692c(b) of the FDCPA by communicating, in connection with the collection of a debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector, without the prior consumer of the consumer given directly to the debt collector.

b. Here, Defendant violated §1692c(b) of the FDCPA when it communicated, in connection with the collection of a debt, with a third party, Plaintiff's parents, without having Plaintiff's express permission to do so.

COUNT II

30. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§1692d and 1692d(5).

- a. Section 1692d of the FDCPA prohibits a debt collector from engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
 - b. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number.
 - c. Here, Defendant violated §§1692d and 1692d(5) of the FDCPA by calling Plaintiff's cellular, home and work telephones, on average, two times a day, for almost two (2) months, with the intent to harass or annoy Plaintiff.
 - d. Further, Defendant violated §1692d of the FDCPA by continuing to call Plaintiff on his home and work telephone after having been instructed by Plaintiff to stop calling, knowing that Plaintiff did not want to receive collection calls.

COUNT III

31. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§1692e, 1692e(4) and 1692e(5).

- a. A debt collector violates §1692e of the FDCPA by using false, deceptive or misleading representations or means in connection with the collection of any debt.
 - b. A debt collector violates § 1692e(4) by making the representation or implication that nonpayment of any debt will result in the arrest or

imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action.

- c. A debt collector violates § 1692e(5) of the FDCPA by threatening to take action that cannot legally be taken or that is not intended to be taken.
 - d. Here, Defendant violated §§1692e, 1692e(4) and 1692e(5) of the FDCPA when it threatened to take legal action against Plaintiff, including garnishing his wages, even though it did not intend to take such actions.

COUNT IV

32. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §1692f.

- a. A debt collector violates §1692f of the FDCPA by using unfair and unconscionable means to collect or attempt to collect any debt.
 - b. Here, Defendant violated §1692f of the FDCPA engaging in other unfair and unconscionable debt collection practices, including repeatedly contacting third parties and revealing to these individuals that Plaintiff owed a debt.

WHEREFORE, Plaintiff, BRANDON MAGYAR, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
 - b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);

- 1 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
2 costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
3 d. Any other relief deemed appropriate by this Honorable Court.

4 **DEMAND FOR JURY TRIAL**

5 PLEASE TAKE NOTICE that Plaintiff, BRANDON MAGYAR, demands a jury trial
6 in this case.

7 DATED: 06/21/12

8 RESPECTFULLY SUBMITTED,

9 KIMMEL & SILVERMAN, P.C.

10 By: _____
11 CRAIG THOR KIMMEL
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